

House Bill 202 (AS PASSED HOUSE AND SENATE)

By: Representatives Harbin of the 118th, Fleming of the 117th, and Sims of the 119th

A BILL TO BE ENTITLED

AN ACT

To amend Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to contracts for public works, and Article 4 of Chapter 2 of Title 32 of the Official Code of Georgia Annotated, relating to exercise of power to contract by the Department of Transportation generally, so as to provide that a contractor that is more than 25 percent behind in the performance of certain contracts due to the fault of such contractor shall not be eligible to bid on any additional state public works construction contracts or Department of Transportation construction or maintenance contracts until such time as the performance of such contracts is brought current or is completed; to provide for a determination of fault; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Chapter 10 of Title 13 of the Official Code of Georgia Annotated, relating to contracts for public works, is amended by adding a new Article 4 to read as follows:

"ARTICLE 4

13-10-100.

(a) A contractor that is found to be more than 25 percent behind in the performance of any combination of two or more of any of the following:

(1) State public works construction contracts; or

(2) Department of Transportation construction or maintenance contracts

based on a final determination that such delay was due to the fault of such contractor shall not be eligible to bid on any additional state public works construction contracts or Department of Transportation construction or maintenance contracts until such time as the performance of such contracts is brought current or is completed.

H. B. 202

(b) The determination of whether such contractor is behind in its performance and the cause of such delay shall be made in accordance with all applicable contract terms and provisions, including the requirements for determination of the contract time of performance, the contractor's right to request a time extension, resolution of any controversy or dispute involving the time of performance, mediation, and all subsequent procedures or processes available under or allowed by the contract, to finally resolve any such controversy. Before such final determination is applied against a contractor, the determination may be appealed de novo to the applicable court."

SECTION 2.

Article 4 of Chapter 2 of Title 32 of the Official Code of Georgia Annotated, relating to exercise of power to contract by the Department of Transportation generally, is amended by adding a new Code Section 32-2-66.1 to read as follows:

"32-2-66.1.

(a) A contractor that is found to be more than 25 percent behind in the performance of any combination of two or more of any of the following:

(1) Department of Transportation construction or maintenance contracts; or

(2) State public works contracts

due to the fault of such contractor shall not be eligible to bid on any additional state public works construction contracts or Department of Transportation construction or maintenance contracts until such time as the performance of such contracts is brought current or is completed.

(b) The determination of whether such contractor is behind in its performance and the cause of such delay shall be made by the Department of Transportation and shall be in accordance with all applicable contract terms and provisions, including the requirements for determination of the contract time of performance, the contractor's right to request a time extension, resolution of any controversy or dispute involving the time of performance, mediation, and all subsequent procedures or processes available under or allowed by the contract, to finally resolve any such controversy. Before such final determination is applied against a contractor, the determination may be appealed de novo to the applicable court."

SECTION 3.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

1

2